IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 12.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUUMAR

Habeas Corpus Petition No.601 of 2006

Natarajan @ Ezhuvas ... Petitioner

Vs.

1. The Secretary to Government,
Prohibition and Excise Department,
Government of Tamil Nadu
Fort St. George, Chennai-600 009.

2.The District Magistrate and District
Collector,
Thiruchirappalli District,
Thiruchirappalli. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records relating to the second respondent in CMP No.15/2005 dated 22.12.2005 and quash the same and direct the respondents to produce the person or body of the detenu Natarajan @ Ezhuvas, aged about 25 years S/o Ganesan, who was confined in the Central Prison, Tiruchirappalli before this Court and set him at liberty.

For Petitioner : Mr. A.K.S. Thahir
For Respondents : Mr. M. Babu Muthu Meeran
Addl. Govt., Pleader

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is the detenu by name Natarajan @ Ezhuvas, who was detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order

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dated 22.12.2005, challenges the same in this Petition.

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Government Advocate has placed the details, which show that the representation of the detenu dated Nil was received by the Government on 18.01.2006 and remarks were called for on 19.01.2006. Thereafter, the remarks were received by the Government 27.01.2006 and the File was submitted on 30.01.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 30.01.2006 and 31.01.2006 respectively, and finally, the Minister for Prohibition and Excise passed orders on 31.01.2006. The rejection letter was prepared on 07.02.2006 and the same was sent to the detenu on 08.02.2006 and served to him on 11.02.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 31.01.2006, there is no explanation at all for taking time for preparation of rejection letter till 07.02.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1. The Secretary to Government,
   Prohibition and Excise Department,
   Government of Tamil Nadu
   Fort St. George, Chennai-600 009.

2.The District Magistrate and District
   Collector,
   Thiruchirappalli District,
   Thiruchirappalli.

3. The Superintendent,
   Central Prison, Thiruchirappalli.
   (In duplicate for communication
   to detenu)

4. The Joint Secretary to Government,
   Public (Law and Order)
   Fort St. George, Chennai-9.

5. The Public Prosecutor,
   High Court, Madras.

GM(CO)
NM(20.09.2006)

HCP. No.601 of 2006

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